

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

WESLEY DANA PLANTE d/b/a :
LAND PLAN ASSOCIATES, :
Plaintiff, :
v. : CA 08-281 S
ARLENE EMBREY, TRIAL ATTORNEY :
d/b/a MONETA CAPITAL CORPORATION, :
RECEIVER FOR: THE U.S. SMALL :
BUSINESS ADMINISTRATION AND THE :
FORMER CR AMUSEMENTS, LLC, :
Defendants. :

REPORT AND RECOMMENDATION

David L. Martin, United States Magistrate Judge

Before the Court is the Motion of Entry to Proceed in Forma Pauperis (Docket ("Dkt.") #17) ("Motion") of Plaintiff Wesley Dana Plante ("Plaintiff"). Because I conclude that the Motion should be denied, it is addressed by way of this Report and Recommendation. See Lister v. Dep't of Treasury, 408 F.3d 1309, 1312 (10th Cir. 2005) (explaining that because denial of a motion to proceed in forma pauperis is the functional equivalent of an involuntary dismissal, a magistrate judge should issue a report and recommendation for a final decision by the district court).

Discussion

Plaintiff's Motion, like many of his previous filings in this matter, is incomprehensible. See Order Denying without Prejudice Application to Proceed in Forma Pauperis (Dkt. #3) at 1 (describing documents filed by Plaintiff as "incomprehensible"); Report and

Recommendation (Dkt. #5) of 8/14/08 at 2 (recommending summary dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) because the basis for Plaintiff's claim remained "largely incomprehensible" even after being given the opportunity to file an amended complaint); id. at 3 ("Given that Plaintiff's recent filings are even less clear, allowing Plaintiff another opportunity to satisfy the requirements of Rule 8(a) is unlikely to result in a pleading which can be understood.").

In addition, this case is closed, the matter having been dismissed by District Judge William E. Smith on August 26, 2008, see Order (Dkt. #7) of 8/22/08 (accepting Report and Recommendation of 8/14/08), and that judgment was affirmed by the United States Court of Appeals on March 27, 2009, see Mandate (Dkt. #13). Therefore, Plaintiff's Motion is procedurally improper and should be denied for that additional reason.

Conclusion

Accordingly, for the reasons stated above, I recommend that the Motion be denied. **I further recommend that Plaintiff be prohibited from filing any further motions or other documents in this matter without first obtaining permission from a judge of this Court.** See Cok v. Family Court of Rhode Island, 985 F.2d 32, 34 (1st Cir. 1993) ("Federal courts plainly possess discretionary power to regulate the conduct of abusive litigants."); id. at 36 ("We have not hesitated to uphold injunctions that were narrowly drawn

to counter the specific offending conduct."). I make this additional recommendation because Plaintiff's incomprehensible filing(s) in a case that has been closed is burdensome and an abuse of the judicial system.

Any objections to this Report and Recommendation must be specific and must be filed with the Clerk of Court within fourteen (14) days of its receipt. See Fed. R. Civ. P. 72(b); DRI LR Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district court and of the right to appeal the district court's decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ David L. Martin
DAVID L. MARTIN
United States Magistrate Judge
June 27, 2011